

Appl. No.: 10/612,993
Amdt. Dated: May 5, 200
Reply to Office Action dated: February 10, 2004

REMARKS

Claims 28-30 and 35-37 remain in this application for examination, claims 31-34 having been cancelled without prejudice or disclaimer.

35 U.S.C. §112, first paragraph:

Claims 28-37 have been rejected under 35 U.S.C. §112, first paragraph. With respect to each ground of rejection, Applicant has cancelled those portions of the claims which are not adequately described in the specification and have replaced that language with language which corresponds to information in the specification. Specifically, a housing and sump have been introduced into claim 1 and references to "open top portion" have been deleted. Moreover, apparent characteristics of the filter media such as "sufficient resistance to flow of oil" have been deleted, as well as recitations of the pump pulling the oil through the filter media, by canceling claims 31-34.

35 U.S.C. §112, second paragraph:

Applicant's claim 28 has been amended to delete recitation of the "filter media disposed at the open top portion of the pan to close the open top."

35 U.S.C. §102:

Claims 28-30 and 35-37 have been rejected under 35 U.S.C. §102 as anticipated by Jagdmann. Applicant respectfully traverses this rejection.

In order for a rejection to be sustainable under 35 U.S.C. §102, every limitation of the claim must occur in a single reference. This is not the case with respect to claim 28 because Jagdmann does not disclose a pleated filter media with peaks and valleys extending in a direction parallel to the axis of the automotive vehicle so as to define troughs which keep a portion of the oil on the dirty side of the filter media from laterally shifting when the automotive vehicle turns. Since there are no

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peaks and valleys in Jagdmann at all, this rejection under 35 U.S.C. §102(b) should be withdrawn.

Rejection Under 35 U.S.C. §103:

Claims 31-34 have been rejected as unpatentable over Jagdmann in view of Taniguchi. Applicant respectfully traverses this rejection with respect to the subject matter of claim 28 as amended to include concepts recited in now cancelled claims 31-34 because Taniguchi fails to disclose a filter pleated media having peaks and valleys defining a trough extending parallel to the axis of the vehicle. The axis of the vehicle as recited by Applicant is defined in the preamble of claim 28 wherein the oil pan and filter assembly recited as having an axis parallel to the direction an automotive vehicle normally travels.

Taniguchi discloses "a screen mesh 6a" in Fig. 4, rather than a "filter media" as recited by Applicant. A screen does not retain oil on one side thereof in the way a filter media retains oil because the interstices of a screen are much larger. Moreover, there is no disclosure in Taniguchi of troughs extending in a direction parallel to an axis of travel of an automotive vehicle so that oil will remain in the troughs when the vehicle changes direction. With screen mesh, oil moves readily therethrough, so the direction that peaks and valleys extend is not a consideration in a vehicle. With a filter media, oil passes through slowly and oil is retained on the dirty side, thus as Applicant asserts a useful result occurs by keeping oil distributed over a filter media as a vehicle turns to that a lubricating pump or transmission pump does not suck air. Accordingly, orienting the troughs parallel to the normal axis of travel is not a distinction without a difference, but is non-obvious distinction over Taniguchi who is silent with respect to the direction that the troughs therein extend. For these reasons, it is respectfully submitted that Taniguchi does not cure the deficiencies of Jagdmann as a reference against Applicant's claim 28.


It is respectfully submitted that this application is now in condition for allowance. In view of the above remarks, favorable reconsideration is courteously requested. If there are any remaining

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issues which could be expedited by a telephone conference, the Examiner is courteously invited to telephone counsel at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,


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